United States Bankruptcy Court
Eastern District of New York

In re:
231 Fourth Avenue Lyceum, LLC
Debtor

Case No. 13-42125-cec
Chapter 11

CERTIFICATE OF NOTICE

District/off: 0207-1 User: cteutonic Page 1 of 1 Date Rcvd: Mar 10, 2017
Form ID: pdf000 Total Noticed: 2

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Mar 12, 2017.

+231 Fourth Avenue Lyceum LLC, c/o David Blum, 11 park Place 10th Fl, New York NY 10007-2828
+Eric Richmond, 2107 Regent Place, Brooklyn NY 11226-3919

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
NONE. TOTAL: 0

***** BYPASSED RECIPIENTS *****
NONE. TOTAL: 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
USPS regulations require that automation-compatible mail display the correct ZIP.

Transmission times for electronic delivery are Eastern Time zone.

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Mar 12, 2017 Signature: /s/Joseph Speetjens

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on March 10, 2017 at the address(es) listed below:

Glenn P Warmuth on behalf of Interested Party P.B. #7 LLC gpw@stim-warmuth.com, pjw@stim-warmuth.com
Lee W Stremba on behalf of Interested Party P.B. #7 LLC lee.stremba@troutmansanders.com, harriet.cohen@troutmansanders.com;nymc@troutmansanders.com
Office of the United States Trustee USTPRegion02.BR.ECF@usdoj.gov
Thomas R Califano on behalf of Interested Party DLA Piper LLP (US) thomas.califano@dlapiper.com, evelyn.rodriguez@dlapiper.com

TOTAL: 4

Official Form 417A (12/15)

CLERK
U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF
NEW YORK

2017 MAR 10 P 3: 41

RECEIVED

[Caption as in Form 416A, 416B, or 416D, as appropriate]

NOTICE OF APPEAL AND STATEMENT OF ELECTION

Part 1: Identify the appellant(s)

1. Name(s) of appellant(s): Eric Richmond

2. Position of appellant(s) in the adversary proceeding or bankruptcy case that is the subject of this appeal:

For appeals in an adversary proceeding.
- ☐ Plaintiff
- ☐ Defendant
- ☒ Other (describe) Affected Party/ Party in interest

For appeals in a bankruptcy case and not in an adversary proceeding.
- ☐ Debtor
- ☐ Creditor
- ☐ Trustee
- ☒ Other (describe) Affected Party/ Party in interest

Part 2: Identify the subject of this appeal

1. Describe the judgment, order, or decree appealed from: 1-13-42125-cec Doc 196

2. State the date on which the judgment, order, or decree was entered: 02/02/17

Part 3: Identify the other parties to the appeal

List the names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their attorneys (attach additional pages if necessary):

1. Party: P.B. #7, LLC Attorney: ~~Glenn P. Warmuth~~
~~2 Eighth Street~~
~~Farmingville, NY 11738~~
~~Phone: 631-732-2000~~

2. Party: 231 Fourth Avenue Lyceum, LLC Attorney: David Blum
11 Park Place 10th Fl
New York, NY, 10007
Office (212) 947-9416

Part 4: Optional election to have appeal heard by District Court (applicable only in certain districts)

If a Bankruptcy Appellate Panel is available in this judicial district, the Bankruptcy Appellate Panel will hear this appeal unless, pursuant to 28 U.S.C. § 158(c)(1), a party elects to have the appeal heard by the United States District Court. If an appellant filing this notice wishes to have the appeal heard by the United States District Court, check below. Do not check the box if the appellant wishes the Bankruptcy Appellate Panel to hear the appeal.

- ☐ Appellant(s) elect to have the appeal heard by the United States District Court rather than by the Bankruptcy Appellate Panel.

Part 5: Sign below

_______________________________ Date: 03/09/2017

Signature of attorney for appellant(s) (or appellant(s) if not represented by an attorney)

Name, address, and telephone number of attorney (or appellant(s) if not represented by an attorney):

2107 Regent Place
Brooklyn, NY 11226
646 256 9613

Fee waiver notice: If appellant is a child support creditor or its representative and appellant has filed the form specified in § 304(g) of the Bankruptcy Reform Act of 1994, no fee is required.

CLERK
U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF
NEW YORK

2017 MAR 10 P 3:40

RECEIVED

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CIVIL COVER SHEET

This form is REQUIRED for the use of the Clerk of Court for the purpose of initiating the civil docket sheet.

IN RE: Bankruptcy Case No. 13-42125(cec) Adv. Pro. No. *(if applicable)*

Bankruptcy Appeal

APPELLANTS	APPELLEES
Eric Richmond, Movant, Affected Party	P.B. #7, LLC
ATTORNEYS (FIRM NAME, ADDRESS, TEL. NO.) Eric Richmond - Pro Se 2107 Regent Place	ATTORNEYS (IF KNOWN) Glenn P. Warmuth Stim & Warmuth, P.C. 2 Eighth Street Farmingville, NY 11738

BASIS OF JURISDICTION: Federal Question

CAUSE OF ACTION - 28:1334 Bankruptcy Appeal (*Write brief statement of cause.*)
Court misidentified movant,
Court misidentified the basis of the motion,
Court failed to address arguments cases and facts raised in motion

NATURE OF SUIT: 422 Bankruptcy Appeal (801)

RELATED CASE(S) IN DISTRICT COURT, IF ANY

DISTRICT JUDGE ____________ DOCKET NUMBER ____________

CIVIL CASES ARE DEEMED RELATED IF PENDING CASE INVOLVED:

- ☐ *1. PROPERTY INCLUDED IN AN EARLIER NUMBERED PENDING SUIT*
- ☐ *2. SAME ISSUE OF FACT OR GROWS OUT OF THE SAME TRANSACTION*
- ☐ *3. VALIDITY OR INFRINGEMENT OF THE SAME PATENT COPYRIGHT OR TRADEMARK*

Date: 03/09/2017 Signature of Attorney of Record: [signature]
[or Appellant Pro Se]

FOR COURT USE ONLY

APPLYING IFP ________ JUDGE ____________ MAG. JUDGE ____________

CIVIL COVER SHEET, Bankruptcy Appeal (cont'd)

Did the cause of action arise in Nassau or Suffolk County? NO

If YES, please indicate which county: ____________________

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

YES ☐ NO ☑

Are you currently the subject of any disciplinary action(s) in this or any other state or federal court?

YES ☐ (If yes, please explain) NO ☑

Please provide your bar code and e-mail address below. Your bar code consists of the initials of your first and last name and the last four digits of your social security number, or any other four-digit number registered by the attorney with the Clerk of Court. This information must be provided pursuant to local rule 11.1(b) of the local civil rules.

Attorney Bar Code: PRO SE --

E-Mail Address: gowanusx@gmail.com

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

---x

In re:	Chapter 11
231 Fourth Avenue Lyceum, LLC,	Case No. 13-42125-cec
Debtor.	

---x

ORDER DENYING THE DEBTOR'S MOTION

WHEREAS, on February 2, 2017, 231 Fourth Avenue Lyceum, LLC (the "Debtor") filed a motion seeking to vacate a state court order (the "State Court Order") and for an open public hearing on judicial notice of undisputed facts (the "Motion"); and

WHEREAS, the Debtor is currently, and was at the time of the filing of the Motion, a limited liability company not represented by counsel; and

WHEREAS, a corporation, or limited liability company, must be represented by counsel (Jones v. Niagara Frontier Transp. Auth., 722 F.2d 20, 22-23 (2d Cir. 1983)); and

WHEREAS, the Debtor has requested that this Court vacate the State Court Order pursuant to Fed. R. Civ. P. 60(b)(4); and

WHEREAS, Fed. R. Civ. P. 60(b)(4) does not provide authority for this Court to vacate an order issued by another court; and

WHEREAS, this case was dismissed on September 5, 2014; and

WHEREAS, in order to consider the Motion it would be necessary to vacate the order dismissing this case (See In re Critical Care Support Servs., 236 B.R. 137, 140 (E.D.N.Y. 1999), see also Cole v. Household Financial, et al. (In re Cole), 382 B.R. 20, 24 (Bankr. E.D.N.Y. 2008)); and

WHEREAS, no grounds exist to vacate the order dismissing this case; and

WHEREAS, the property which was the subject of the State Court Order was sold on or about October 23, 2014, and is no longer property of the Debtor; and

WHEREAS, this matter is therefore moot;

NOW, THEREFORE, it is hereby

ORDERED, that, after due consideration, and for all of the above reasons, the Debtor's Motion is denied in its entirety; and it is further

ORDERED, that the hearing on the Motion that was scheduled for March 9, 2017 at 2:00 p.m. is marked off; and it is further

ORDERED, that the Court certifies pursuant to 28 U.S.C. § 1915(3) that any appeal from this order would not be taken in good faith.

United States Bankruptcy Court Eastern District of New York

Dated: Brooklyn, New York
February 6, 2017

Carla E. Craig

Carla E. Craig
United States Bankruptcy Judge